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5th ed.
was 1764.

CONSIDERATIONS

ON THE
Great Britain - George III. King
TITH E-BILL,

FOR

THE COMMUTATION

OF

T I T H E S,

NOW DEPENDING

IN PARLIAMENT.

Wherein the ARGUMENTS ON BOTH SIDES of the Question
are candidly discussed, and a PLAN suggested, that may conciliate
both Parties in the Debate.

Bill read 13 May 1776

Printed for LOCKYER DAVIS, in Holborn,
Printer to the ROYAL SOCIETY.

MDCCCLXXXII.

CONSIDERATIONS

ON

THE BILL

FOR

THE COMMUTATION

OF

THE



IN PARLIAMENT

Witness the Assent of our Right Hon. the Lord Bishop of London, and a few hundred, the

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1881.

CONSIDERATIONS, &c.

THE Bill for the commutation of lands for Tithes, which was, in some degree, agitated the last Session of Parliament, and will most probably be proposed again in the next, was defended and opposed by many important arguments on both sides. I do not presume to decide upon the merits of each: but perhaps some strictures may be made upon each, which it is hoped will give offence to neither, and may lead to a fair discussion of the whole. If the few hints, which I am able to suggest, may be, in any wise, useful to those, who can improve them to the removal of complaints, on either side, in framing the Bill, my end is answered. I profess myself, in my heart, a well-wisher to the Church, and as much an enemy to the oppression of Proprietor or Tenant.

Tithes have been always deemed, and most justly, the unalienable right of the Clergy. They are indeed so much their right, that they are virtually reserved for them, as their portion, in every private property. For no purchaser of lands is supposed to purchase, nor any feller of lands to sell, more than nine parts of them out of ten. The proprietor too, if he should lett his estate to a tenant, bargains for

no more than nine parts : and the tenant, whether he considers it or not, hires no more ; so that no one can be said to be injured by the claims of the clergy : the tenth part of the produce, whatever it be, belongs to them as legally as the other nine parts do to the occupier or owner. Neither he nor his progenitors ever possessed more than nine ; his inheritance, which is held by this tenure, reaches no further : and his title to his own is not better founded, than that of the clergy to their allotment of the remainder.

It is not necessary, for a proof of this, to go back to the Jewish institution for the origin of tithes, as they were the appointed maintenance of the Priesthood ; nor is it material to inquire, how the Christian clergy were supported during the first three ages of the Christian church, though some reasons may be given, why it was not by tithes [1] ; (for not till the fourth and fifth ages was the division of Dioceses into Parishes formed [2] :) it is enough to know, that the first Christians understood the law about them to continue in

[1] See *Carleton's Divine Right of Tithes*, c. 4.

[2] At this time particular presbyters and deacons were assigned to each parish, for the convenience of celebrating christian offices, and holding christian communion, says *Jerom* contr. *Vigilant*. c. 2. and *Theod.* Ep. 113.—In England we have not so early an account of them ; for the records of the ancient British church make no mention of parishes. And even after the Saxon conversions were begun, it was some time before the dioceses were divided into parishes. *Dugdale* and some others think, that *Honorius* the fifth Archbishop of Canterbury divided so much of the Nation, as was then converted, into parishes, about the year 640. It is certain, separate churches were built in the country, and presbyters appointed for them by King *Ina*, among the West-Saxons, and by *Witred*, King of *Kent*, in the council held at *Beconfeld*, ann. 694. From all which, we may collect, that the original of country parishes in England was about the latter end of the seventh century ; and in the next age they were fully settled. Some, who were well versed in our English constitution, are of opinion, that the Bishops had their portion

in its full force [3]: and that they began to be *generally* settled upon the Church in the fourth century, when the Empire was converted from Heathenism, and the Emperors protected it [4].

Some have thought that *Constantine* settled them by law upon the church: but we know of no law of that Emperor now extant, which expressly enjoins it. His annual allowance, however, of corn to the clergy leads to it: for Mr. *Selden* himself, in his *History of Tithes* [5], proves, that they were paid to the church before the fourth century was ended; and it is easy to shew, from the authority of councils in the next age, that they were then actually settled upon the church. Mr. *Selden* has historically deduced the regular payment of them, as certain, through many centuries.

Indeed, abuses crept in, with respect to the application of them to Monasteries in after-ages; whereupon the fourth Lateran council, which was held in the reign of our King John, interposed; and absolutely decreed, that every person was compellable to pay tithes, as of common right, to the clergy; which decree has never since been reversed or controverted.

Nevertheless it must be observed, that some exemptions from tithes have been set up; and whilst the proprietors of lands have the evidences of them in their own hands, it is difficult, if not impossible, for the clergyman to disprove the validity of the plea. But the Law, as it stands at present, by which he is enabled to sue

portion of the Ecclesiastical revenues with the parochial clergy for a considerable time after the first settlement of parishes. Afterwards the Bishops seem voluntarily to have relinquished their title to parochial revenues: but whether they made any canon about it, is uncertain.

[3] Vid. Jerom. on Malachi, ch. 3.

[4] See Bingham's Orig. Eccles. B. 5. c. 5.

[5] Ch. 5. p. 47, &c.

for tithes of *common right*, still prevails, if the proprietor do not prove the exemption: it likewise secures the clergy from all frauds or impositions; and nothing else can effectually secure them.

Some few years ago, an attempt to invalidate the tenure of tithes, or at least the recovery of those which were in danger of being lost, was discovered, by a proposal of extending what was called the *Nullum Tempus* Act to ecclesiastical revenues: but it was happily over-ruled: and if it should appear probable, or even possible, that the Bill, now depending, for the substitution of lands instead of tithes, should, in its tendency, or if carried to its full extent, be attended with the same consequences, there is no doubt, but it will meet with the same fate: if, on the other hand, it should be proved, in the issue, to be a beneficial Bill, there is as little doubt, but it will succeed.

I do not pretend to surmise, that such an exchange, as is proposed by this Bill, will be always dangerous in its tendency, or prejudicial in its consequences; much less, that it is meant to be such by its advocates. Neither do I deny, but that it may, in some instances, be advantageous to the Church: for I would not be understood, either to exclude it wholly, or to make it universal. I would rather recommend, if that became me, something between both: I mean, a *permissive* Act, rather than a *compulsory* one: for scarcely any of this latter kind can make the allowances that may be requisite, in a variety of cases, which may happen, wherein individuals must be aggrieved; or will complain that they are aggrieved.

The incumbent upon a Living may not himself be able to judge, especially at his first coming into a parish, what may be most beneficial to him, or least oppressive to his parishioners; or it may be, that

that too selfish a view of the beneficial part may carry him insensibly to an indulgence of the oppressive: and therefore to remove all complaints of that kind, which tithes have often occasioned, sometimes groundlessly, though the Act be only *permissive*, yet I do not mean, that it should be left to be settled between proprietor and incumbent alone. No exchange of Glebe-lands, however inconsiderable, can be made without a commission of clergy and laity, to ascertain the value of the lands to be given in exchange, that the church may receive no damage: and a commission of the same kind would be necessary, in this, far more important transaction, to judge whether a commutation of lands for tithes would be advantageous or disadvantageous in any parish: and according to that judgement, to be ratified by the joint concurrence of the Bishop, Patron, Proprietor and Incumbent, let the exchange take place or not.

If it should be thought, that such an Act as this would leave things just where it found them; it is not so: for at present, no such commutation can take place without an Act of Parliament for the special purpose, which is not to be obtained without great expence, and therefore scarcely ever would be applied for, unless, as it has been, a power be included in the Act that is procured for inclosure: but then it is *compulsory*. Were it left to every one's choice, I am persuaded, that in many places it would be chosen, and in others not.

Should it be said, that no hurt has been done by this, but rather the contrary, for that in those parishes, which have been inclosed, the value of the Livings has been increased; it is true, I believe: and if every such parish could be inclosed, without prejudice to any one, and the new inclosure made for the Rector in the most convenient part for him, without any charge upon him or his successors,

it

it might answer in all places, better than many straggling parcels of ground ; for doubtless it would, in such a case, be the most eligible assignment : but in those countries, which are inclosed already, and where property is fixed by settled boundaries, all these, however ancient, must be destroyed ; the allotment would breed confusion between several proprietors, whose lands are intermixed ; and to make it convenient for the Rector, his lot perhaps must fall in the least valuable part of the parish ; for in every one, the lands vary considerably ; and in many, cannot be improved without an immense expence ; so that the commissioners would be at a loss how to adjust this matter, between the several proprietors and the Rector.

It is dangerous to remove the ancient bounds, or to alter long-established customs : and the establishment of tithes, in particular, is of so great and universal concern, that an alteration ought to be thoroughly and maturely weighed, before it is allowed to take place ; much more, before it passes into an Act of the Legislature, which, when once put into execution, could never be repealed.

This is an argument, which They will not fail to make use of, who wish to continue the regular support of the clergy upon its old footing. And it must be confessed that it has its weight. For no one can answer for the future, though they may be distant, consequences of innovation ; and yet these, however distant, ought to be guarded against, when no after-remedy can be had for them. But surely it cannot be the design of any community, much less of the supreme council of the Nation, to deprive a numerous class of its constituents of a decent maintenance, or even to run the hazard of lessening it, who have voluntarily sequestered themselves from all temporal emoluments of commerce, for the spiritual good of that community ; and without whose support, as a considerable part of it, the whole must drop into anarchy and confusion.

For so strict is the alliance between the ecclesiastical and civil state, as has been demonstrated in an incomparable treatise on that subject [6], that the downfall of the one must involve the other in its ruins. I will not suppose therefore, that it is meant to rob them of the least of that pittance, which the fore-fathers of the clergy have left them as the patrimony of religion: especially if it be considered too, how unequally it is divided; and, as it often happens, how small is the share, where the labor is the greatest.

“ Touching that which hath been taken from the Church in
 “ appropriations, known to amount to the value of one hundred
 “ twenty-six thousand pounds yearly, we rest contentedly and quietly
 “ without it, till it shall please God to touch the hearts of men,
 “ of their own voluntary accord to restore it to him again. What
 “ hath been taken away as dedicated unto uses superstitious, and
 “ consequently not given unto God, or at the least wise not so
 “ rightly given, we repine not thereat. That which hath gone by
 “ means secret and indirect, through corrupt compositions, or compacts,
 “ we cannot help. What the hardness of men’s hearts doth
 “ make them loth to have exacted, though being due by law, even
 “ thereof the want we do also bear. Out of that, which, after all
 “ these deductions, cometh clearly unto our hands, I hope it will
 “ not be said, that towards the public charge we disburse nothing.
 “ And doth the residue seem yet excessive? The ways whereby
 “ temporal men provide for themselves, and their families are fore-
 “ closed unto us. All that we have to sustain our miserable life
 “ with, is but a remnant of God’s own treasure, so far already diminished
 “ and clipt, that if there were any sense of common humanity
 “ left in this hard-hearted world, the impoverished estate of
 “ the Clergy of God would, at the length, even of very commiseration
 “ be spared.

[6] Bp. Warburton’s Alliance between Church and State.

" It is our hard lot, that no other sort of men being grudged
 " at, how little soever the public weal reap by them; no state com-
 " plained of for holding that, which hath grown unto them by
 " lawful means; only the governors of our souls, they that study
 " day and night so to guide us, that both in this world we may
 " have comfort, and in the world to come endless felicity and joy,
 " (for even such is the very scope of all their endeavours, this they
 " wish, for this they labour, how hardly soever we use to construe
 " of their intents;) hard, that only they should be thus continually
 " lifted at for possessing but that, whereunto they have by law
 " both of God and man most just title." *Hooker's Eccles. Pol. B.*
 7. ad fin.

But not only the cause of the clergy is concerned in the issue of
 this interesting debate: the lay-possessors of impropriate rectories
 will be equally affected by it. Many of these are qualified, by their
 experience in agriculture, to judge of the expediency or in expediency
 of exchanging their tithes for lands: and therefore it is to be pre-
 sumed, that they will be first consulted about the propriety or im-
 propriety of such a Bill.

If any of these be, as they often are, the lessees to any Cathedral
 Church or College, it is most usual for them to lett their own lands
 tithe-free, and doubtless they feel the advantage of it in the ad-
 vance of rent; though it must be said, that this custom ought not
 to be allowed, lest such an unity of possessions should occasion dis-
 putes about the value of the church-revenues, and possibly diminish
 them in time, by the lessee's over-valuing his own rights, and un-
 dervaluing theirs, in his estimate for a renewal. However, in what
 concerns their own private property, as the impropriation may be,
 they will avail themselves of their own judgement, and the judge-

ment of their stewards, if they be as faithful, as they are probably understanding: they will hardly consent to any thing, that is likely to prove prejudicial to their income: if land be appropriated instead of these tithes, its proportionate value will be minutely ascertained, and, it may be, collusion will be prevented: if any alteration should take place, let it begin here; and the clergy will then be furnished with a safe rule to go by.

It has been already strongly urged, on one side of the question, that a Bill to alter a Law established from almost the beginning of the Christian æra is a very serious matter; that the expediency of a general commutation of land for tithe ought to be well proved, lest the constitutional rights of a considerable sett of men should be injuriously affected. I would therefore avoid the necessity of an universal commutation: no one should be *compelled* to comply with it: and though, after an inclosure, the clergyman should reap the advantage of another's improvement, yet it is the tenure, by which he holds his estate; and if it be no injury done to any one, that the Rector is intitled to the tenth of the produce before the improvement, it is none after it; any more than it is, when an extraordinarily plentiful year increases the value of the tithes which are taken in kind, in proportion as it does that of the whole crop.

Nevertheless, it has been said, on the other side, that if the owners of lands were compelled to pay tithes of the full improved produce of their lands, the laudable spirit of inclosure and cultivation would be restrained, and it would be impolitic to check such improvements. This, it must be confessed, is seeing the matter in too narrow a light for a liberal mind: and though it be a selfish one, which is of all other arguments the most prevalent, yet will any man, who consults or understands his own interest, forego the profit arising from the improvement of nine parts, merely because the

Rector, who may deserve very well at his hands, will have the profit of the tenth? This enmity, like the charity of such a man, begins at home, though it does not end there. If, by laying out a particular sum of money upon improvement, I can gain ten *per cent.* over and above the interest which I could otherwise make of that money, shall I, in common prudence, lose such an advance upon my principal stock, only because the clergyman may gain a proportionate advantage? This, according to the vulgar proverb, is worse than putting out both my own eyes, that I may put out one of his.

Besides, it never prevents the improvement of copy-hold lands, where there is the spirit of improvement, because the Lord of the Manor will take the advantage of this, and upon an admission will sett his fine in proportion to the improvement; nor of the Leasehold, because he will increase the fine of renewal: and why should we suppose the Laity to be so blind to their own interest, as to deprive themselves of the advantage of nine parts in ten, lest the clergy should enjoy the advantage of the tenth? We cannot suppose it: nor do we see, that even the selfish farmer himself, who has a long lease of his farm granted for this very purpose, is restrained by it: he understands his own interest too well for this.

The parish-priest, it is said, if *compelled* to accept of land, as a commutation for tithes, must turn farmer, and neglect the duties of his function to provide the means of subsistence.—Therefore, I say, he ought not to be *compelled*: whatever tempts him to neglect the duties of his sacred function should, by all possible means, be avoided: but this will, in both cases, depend upon his own turn of mind. I have known a clergyman, who occupies his glebe, and takes his tithes in kind, as much immersed in secular business, as if he had occupied a farm in exchange for his tithes. And with respect to
 4 what

what is added, that, as farming utensils and a stock of cattle are requisite upon a commutation, such of the clergy as are too poor to provide themselves with these would be left intirely destitute of support, and the value of the lands lost to the public; it is much the same in both cases. The clergyman's due is not always to be had, by a great proportion, without gathering his tithes; and if, for the sake of himself and his family, he be driven to this, the same utensils and the same stock of cattle will be requisite for this as for the other; especially too, if he keep his glebe, which may be considerable, in his own hands; which the resident clergyman will most probably chuse, whether he gathers his tithes or not: and if he should not care, from not understanding it sufficiently, to involve himself in so much worldly business, foreign to his profession, it might be provided for, by this Bill, that a committee, to be chosen by both parties, should, upon oath, deliver in the value of the tithes of each farm, deducting for all necessary expences, and a fair composition be entered into for three years, as the Law directs; or, upon an exchange, to value the lands for an agreement between Rector and Tenant.

Indeed, I am aware, that in this last case the clergyman may be materially hurt: for upon the failure of a Tenant, which no one can foresee, the whole year's profits may be lost to him and his family, and upon a lease, it may be much more, unless he can, in time, get possession of the stock, and that may not always be sufficient to repair his loss, even though no fraud, to which he is subject, be used. Whereas, if he can compound with his several parishioners for their separate share of the tithes upon reasonable terms, the failure of one may not affect him greatly; at least, not so materially, as when the whole lump, which is his whole subsistence, is ventured upon one bottom.

In some parishes of large boundaries, this may be too great a concern. For there are some, though not a great many, Livings of four or five hundred pounds a year, some much larger. Now a farm, if the tithes be converted into that, of such a rent, is larger than ought to be occupied by any one man; the clergyman certainly can never occupy it himself: and yet, if it be divided into two or more, the buildings requisite for them, and their repairs afterwards, would become too great a burden; and a most unreasonable deduction from the income would ensue.

As to what has been said about the condition of these buildings, which, after some years, may be found ruinous by a new incumbent, and nothing left to recover from a distressed family, there is a hazard in both cases; in the latter indeed rather greater. Our parsonage-houses and barns are frequently left in this condition now, and no remedy can be had in either case, should the predecessor have neglected them, or died insolvent. The more there are of them, or the larger they are, the more likely is this to happen.

It may be of unspeakable disadvantage to the clergy, should they be *compelled* to exchange their tithes for lands, and no alternative left them. In very extensive parishes, where the composition for tithes may amount to six or seven hundred pounds a year, or in some places to more, there will, as I have just observed, be too much for one farm; and when divided, as it ought to be, into three or four, the number of separate fences and ditches necessary for the several tenants, will take away much more from the income than the lowest composition will in the present mode. And if both buildings and fences should be left dilapidated, a successor must be at an immense expence in repairing both; when perhaps, upon his first coming into the Living, he may not be well able to bear it. And if, as it
6. often

often happens, he should come late in life, he must either purchase the Living by unavoidable charges, and another reap the benefit; or his family will suffer from the dilapidations which become due from him, however short was the time that he held it.

If the value be moderate, suppose one hundred pounds a year, the lands must either be occupied by himself, which many will, for good reasons, be averse to, and from thence may be a sufferer; or another house, besides his own, must be built, which will require the profits of some years: and if it be very small, as some thousands of Livings there are under fifty pounds a year, many under twenty, the land must then be lett to a neighbouring farmer at his own rate, which, as will appear afterwards, cannot amount to the value of the tithes, from the most advantageous commutation: or, with great inconvenience, he must leave his habitation in another place, if he have one, in order to occupy what cannot answer to him in the end.

In large parishes indeed, I mean now of extent, not of value, the Rector may be teased for weeks together in collecting a small quantity of tithes from many distant parts; and there, doubtless, an exchange would become eligible: especially too, if the glebe-lands lie scattered in different little parcels, which may be occasioned by different donations to the parsonage at different times. But in smaller parishes this is not so material. Take both together, and you will quickly perceive the utility of the *permissive* scheme.

Another inconvenience may arise to a successor, I do not say it often will, from this commutation, which ought to be guarded against. A rapacious incumbent, and perhaps a necessitous one with a large family, considering himself only as a Tenant for life, and not reflecting, as he ought, that he is a guardian for the Church, in order to make the most he can of his present income, may leave the lands impoverished,

impoverished, if they have been occupied by himself; or even the heart of them, as it is vulgarly expressed, may be worn out by constant tillage, or bad husbandry; what an expence then must it cost the successor? And yet he may not enjoy the preferment long enough to re-imburse himself; or the rent, if they be lett, lowered considerably, before they can be recovered. And when they are recovered, the tenant, if he has been at any expence, as it is probable he must have had some share in it, will think it hard to be raised for the improvement which he has made at his own cost or labor: so that the value of that Living must be lessened, it may be, for the whole life of the present possessor.

There is likewise another disadvantage, not to be dissembled, which will attend such a commutation, to the lay-proprietors, and which they do not seem to be sufficiently aware of. It is this: They now, as I said before upon another account, inherit, purchase, sell, or lett nine parts in ten of their estates: but upon an exchange for tithes, that tenth part, or tenth acre, is not a sufficient compensation to the clergyman: for by the law of tithes, as it now stands, the tillage and seed are given: so that every seventh, or perhaps every fifth acre, must be allowed him: but then the proprietor loses all above the tenth acre; and his farm is so much diminished; consequently his rent must be lowered, or the purchase-money, if he would sell it, abated; whilst the clergyman perhaps, in the mean time, is not benefited by the exchange; and therefore, in effect, so much is lost to the public; the proprietor's estate is lessened, and the Rector's income not mended. Why then, as this may happen, should either party be *compelled* by Law to make a disadvantageous exchange?

Indeed, it has been thought, and there is great weight in this, that no equivalent whatever can be made for tithes. For even supposing, that

that every fifth acre could be had in exchange, which is more than is generally, perhaps ever, allowed; and that at an average this land, after all the expences upon it, could be lett for ten shillings an acre, which is the utmost in the inclosed countries, and in the open not near so much; yet a composition of three shillings an acre for the tithes, which is the usual, and indeed a moderate composition, will produce fifteen shillings, clear of all expences, for the five acres of land, whilst it continues in the farmer's hand; so that the Rector's loss is five shillings in every acre that is allotted to him. Nay, in some countries, not inclosed, I have known the rate of tithes to be at five shillings an acre for wheat, four for barley, and three for oats, the average at four shillings, and yet the average-rent of the farms not to exceed half a crown an acre. In this computation some allowance must be made for fallow-ground every year: and therefore I would sett the tithes, as before, at three shillings an acre throughout. The only thing that can be said in favor of a commutation, in such a parish, is, that there may be a large quantity of pasture, and that the agistment-tithes will amount to little. But in these countries, there is generally but a small quantity of pasture in proportion to the size of the parish; and wherever there is any meadow ground, the hay arising from it is of a very inferior quality.

In answer to this objection against an exchange, it is said, that if three rents be made of the acre of land (which the farmer expects to make, and reasonably too, for one of them must be allowed for seed and tillage, and another for rent), it will then be more advantageous to the clergyman to occupy that acre. It is true, indeed, that all lands will not answer this, or he may not be able to make as much of it as the farmer will; but if he can make only a double rent of it, he will still be a gainer.

But,

But, on the other hand again, it may be rejoined, that if he should not, or cannot occupy it himself, he must be contented with the average-rent, unless he will turn farmer, against his inclination, perhaps against his conscience, which it would be beyond measure cruel to drive him to; and then his loss is indisputable. If, however, he should comply with this necessity, or it should suit his inclination, then the former objection recurs, of being withdrawn, in his mind and attention, from the private duties of his function; for an acquivalent cannot be gained without this ill consequence: and it is a most serious consequence to the thinking part of mankind.

If only the seventh acre be allowed him, the disadvantage is still greater: for, in order to compensate for the value of the tithes, he ought to lett the land at a guinea an acre, or he must lose half of it by the exchange. Add to this, that in either case, if he should be taxed to the heighth, as it is most probable he will, and rated to the heighth too, the draw-back will be still more considerable. At least, the out-goings of this kind will be larger than any composition for tithes can be subject to: for that is never taxed to the full, and seldom rated at all. Add to this, that, in some places, the rectors of parishes have the privilege of large sheep-walks annexed to their rectories; and it will be difficult to say, what compensation can be made for these, or indeed how to estimate the value of them in exchange; for it will depend upon the largeness of the flock, and this again, in some measure, upon the circumstances or inclination of each incumbent.

But the strongest argument in favor of a substitution of lands for tithes is still behind: and it is this: It will remove an universal theme of contention between the clergyman and his parishoners:

rishioners: that it is notorious how extremely unpopular the collecting of tithes has rendered the clergy: and that no degree of piety, no advantage of wisdom or eloquence, could make a man's preaching effectual, if the hearts of his congregation were alienated from him.—All this is true: the subject of tithes has occasioned greater disturbances, and more lasting animosities between clergy and people, than any, or all others together; and if the cause of such bickerings could be removed, it might be hoped that the effect would cease. It has, indeed, with equal truth, been said, that the clergy must often give up a great part of their just rights, if they would gain the good-will, or even live in peace with their neighbours: and to prove that the fault is not theirs if law-suits have ensued, an appeal is made to the records of the court of Exchequer, to shew, that the instances, in which the prosecutors for tithes (of which there are a great number of lay-impropriators as well as of clergy) have failed, are few and inconsiderable, in comparison of those in which they have succeeded. But though the blame is not in the clergy, who cannot recede from their dues, yet they feel the effects of it. For besides the vast expences of a troublesome and vexatious suit, from which their families must suffer considerably, whether they succeed or not, the same heart-burnings will remain; perhaps the greater, because they have succeeded: and we all know the unreasonable, disquieting revenge, which the poor deluded farmer takes upon himself, in order to be revenged on the rector; that he absents himself from the church; and ruins his own soul, because he has wrongfully taken it into his head, that the rector, though he recovers only his rights, means to ruin him and his family.

But, then, a *compulsory* Act may not prevent these animosities so effectually as it is imagined. The portion of land to be assigned in lieu of tithes, where both parties are obliged to it, will some-

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times

times become a theme of contention between them. All proprietors, throughout the kingdom, will never be brought to be of the same mind: where they do not approve of the plan, as some will not, complaints will arise about the value of the land to be separated from their possessions: it will either be too much, or too good; perhaps they will say, the best part of their farms; and therefore, unless it be made a voluntary deed, which it cannot be but by a *permissive* Act, it will be impossible to escape that envious jealousy, which the revenues of the church are apt to excite, and the clergyman will still feel.

Perhaps a method might be proposed, even in the present mode, between the incumbent and the farmer, by the intervention of others, which would remove the foundation of all animosities between them, upon an easy and fair composition for their tithes; and might moreover form a friendship between them, that would be attended with comfort and satisfaction on both sides. Let the lands be surveyed by an indifferent arbitrator on each side, who will be able to judge as well about the value of the tithes, as the value of the ground: let the necessary expences of seed and tillage be deducted from this, and the profit of stover allowed to the clergyman for every tenth acre, and let him be paid the tenth of the remainder for the composition of his tithes: and I doubt not but the whole will be easily settled to their mutual satisfaction. The difference between a good year and a bad one cannot be taken into this account; nor can it in the rent upon lease. If the farmer be accidentally a material sufferer, which no one can foresee, neither landlord nor rector will be so hard-hearted, as to become indifferent to the grievance; for he is upon the same footing, in this respect, with regard to both. Or, if the suspicious farmer will not trust to this, let the crop be surveyed yearly, and the composition settled accordingly; neither of them can be hurt by this. If the

two arbitrators cannot agree, let an umpire be appointed by both. The vicarial and agistment-tithes will easily be settled by the same mode, and all personal altercations between the vicar and the farmer avoided. It may be suggested, that such a clause inserted into the Act, where no exchange takes place, or where the tithes are not gathered in kind, will be useful.

Indeed, an exchange of land for tithes may be the occasion of more land becoming arable, than there is now, if it were only from the difference of the payment of tithes, between that and herbage, being taken away: and whatever promotes tillage, and therefore industry, will be judged to promote the benefit of the community. But whether that may not be carried too far, by the diminution, if not the exclusion of dairy-farms, I must leave others to judge; especially at a time, when no exportation can take place: and what good again that would be of to the publick, if it could, is another question, upon which I do not pretend to decide. Perhaps it may be of none, in a general view. At least, so our forefathers, who were wise in their generation, judged.

That inclosures, in general, are not of that utility which is imagined, I am fully persuaded. For besides an unfair distribution of property, from the leading man in a parish claiming more than his share, and the inferior owners not daring to oppose him, together with the total abolition of sheep-walks in some places, the poor have, in many instances, been robbed of their right of commonage, and no sufficient compensation made to them instead of it: it may be, only a small piece of ground, which will be of no use to them, but for a garden of herbs; whilst they lose, in some places, a great part of the supply of their winter-firing, from the furz that grows upon the commons,

commons, or, in the low countries, from the turf which they have the privilege of digging; and, in most, the maintenance of a sow, or a calf, or poultry of various kinds, which form a considerable article in their subsistence, and often turn out to a good account.

These are some of the difficulties that occur on both sides of this interesting question; and they are such, as nothing, I apprehend, but a *permissive* Act, can prevent or remove. Leave both parties at liberty to commute or not; and it is probable, that the commutation, wherever it shall be chosen, will be settled amicably: if it be not chosen, the church will receive no damage, and the people will be satisfied.—*Valeat, quantum valere potest!*

F I N I S.

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